ZONING BOARD OF ADJUSTMENT NOVEMBER 4, 2015 MEETING DRAFT MINUTES

Board members present included Chairman Christopher Carley, Nicholas Wallner, Andrew Winters, and Jim Marshall. Also present was Zoning Administrator Craig Walker and Clerk of the Board Rose Fife.

Peter Webster for Webster Peter Realty: Applicant requests a Special Exception under Article 28-8-4(c)(2) to permit an expansion of a non-conforming steel manufacturing, fabrication and warehouse facility (uses K-7 & L-1) to add a 1 floor 290 s.f. foot print addition which equals a 1.7% expansion of the existing building when a maximum expansion of 10% is permissible by Special Exception, for property located at 10 Basin Street in an OCP Opportunity Corridor Performance District in an F-1 Flood Hazard Overlay District.

Web Stout, LLS testified. Peter Webster was also available to testify. Web Stout said that about $2 \frac{1}{2}$ years ago they were before the board for a 1,400 s.f. addition. Due to the cost of the 2 story addition and the downsizing of the company they didn't need that much of an addition. They are proposing a 1 story addition in the same location; 14.5' x 20'.

Wallner asked if the Board approved the request 2 ½ years ago. Mr. Stout said yes.

Mr. Winters questioned why it was presently nonconforming. Mr. Stout said it was due to a change in zoning. The business started in 1989 and at that time it was allowed. The zoning has changed so it is now not allowed. Marshall asked Walker about additional parking spaces. Walker said that there were none needed.

In favor: none.

In opposition: none.

Code: none.

DECISION: A motion to approve the request was made by Wallner, seconded by Marshall and passed by a unanimous vote. There was substantial written documentation in the file to support this approval.

Colleen Sullivan (under P&S agreement): Applicant wishes to establish a pediatric physical therapy outpatient healthcare clinic with equestrian facilities and requests a Variance to Article 28-2-4(j), Table of Principal Uses, to permit the establishment of an outpatient pediatric clinic (Use E-3), for property located at 180 Clinton Street in an RO Residential Open Space District.

Colleen Sullivan testified. She would like to purchase this property to place her pediatric physical therapy practice. She has outgrown her current space and would like to move her practice to this address. Her practice also provides therapy using horses. It is zoned RO. It had previously been approved for a kennel. The main part of the house is on the second and third floor and the bottom floor is an open space, good for an office. The home is really not a good layout for a residential use. It will be lived in by either herself or a renter. It will be a residentially occupied business property.

Craig Walker gave the Board a history of the property. It has been empty for guite a long time.

Carley asked if she would build a horse barn. She doesn't plan on building a horse barn. The property has a garage that is attached to the home. She would build a 500 s.f. attachment to the garage in the rear of the property. She may put up running sheds for the horses for Spring, Summer and Fall use, but in the winter time she would bring the horses back to her home.

Carley asked Walker if this were strictly a use variance. Walker said yes.

Winters asked Ms. Sullivan if she had been before the Board recently. Wallner asked if she had been before the Board for a property on Pleasant Street. She said yes. This property suits her needs much better and will meet the needs of children with disabilities that she services as well.

Marshall asked Walker if it was a non-permitted use. Walker said yes. Ms. Sullivan stated this is part health care center and part equestrian center. Marshall asked which it is more of; a medical facility or equestrian center. Ms. Sullivan said it's more like a play center. She works with children up to the age of 21. She may use various toys such as swings and balls. These are more of the type of equipment she uses.

In favor: none.

In opposition: none.

Code: none.

DECISION: A motion to approval the request was made by Wallner, seconded by Winter and passed by a unanimous vote.

Marshall felt that there would be no negative impact; that the substantial justice piece was met. He wasn't sure about the hardship as it could be used as a single family home and it has plenty of land. Wallner stated that the Board heard it would involve kids and down the street there are several churches with children's outdoor facilities. It is parallel with other things in the neighborhood. Winters agrees it is not unreasonable in this area to use this property for this type of use. Marshall stated that the hardship might be that it's an outpatient medical facility. As it is an equestrian center it isn't a medical facility. Walker added that the first floor of the building was designed for an office use for the kennel facility it was originally approved to have and is still in an unfinished state. Carley stated that the house is an unusual size and scale. The property is a large wide open area. There are other similar uses along the road. Carley felt it is a reasonable use due to the peculiar shape of the property. It is a busy well-traveled road.

- **39-15 David and Natalie Hilts:** Applicant wishes to widen their driveway and store a recreational trailer within the required side yard setback and requests the following:
 - 1) Variance to Article 28-7-7(g)(2), Setbacks from lot lines, to permit a portion of the driveway/parking to encroach into the required 5' setback (100SF +/-),
 - 2) Variance to Article 28-2-4(k), (Uses) Accessory to Principal Residential Use, (use A-8) and Article 28-5-34, Outdoor Storage of Recreational Equipment, to permit the outdoor storage of recreational equipment in the required 15 foot side yard setback

For property at 11 Robin Road in an RS Residential Single-family District.

David Hilts testified. He apologized to the Board for the request being "after the fact". The driveway is angled due to the property line and the back extends into the 5 foot setback. The measurement was taken from the front of the property. They weren't aware that the property line wasn't parallel with the house. His neighbor notified his contractor of that fact after the excavation was completed. He would have applied for the variance ahead of time had he known. His neighbor, Mr. Frappier, supports this request. His piece of property has one of the smallest frontages; 80 feet. The house and garage are placed in the middle of his property. There is 18 feet on either side and with the setback there isn't much left. They wanted more parking as they have been shuffling the vehicles daily due to the width of the driveway. If they have company over the people need to park in the street. It is an improvement to the neighborhood. Most of the other properties have a double width driveway.

Marshall wanted clarification of what is on the drawings submitted. Mr. Hilts explained that the back part of the driveway is in the setback. Marshall asked if the driveway touched the neighbor's property. Mr. Hilts said it's pretty close. Winters asked how far he was into the 5 foot setback. He said it might go all the way. Marshall asked about variance #2. Mr. Hilts said that he doesn't have the camper yet. Right now they have a pop-up camper in the garage but they want to upgrade to a 30' +/- travel trailer. They would like to park it along side of the garage. They have hedges that would be a good buffer. They would need a variance no matter which side of their property they parked it on. Wallner asked how deep his garage was; approximately. Mr. Hilts was not sure. Carley asked if his garage was 24' deep. Mr. Hilts thinks it is. Carley asked if the new paving stops at the garage. Mr. Hilts said it does stop at the back end of the garage. Marshall asked Walker why a 5' setback for the driveway but if you park an RV there it is a 15' setback. Walker explained.

Mr. Hilts explained that the back of his property slopes. Marshall asked if he could park behind his garage. Walker said he didn't believe Mr. Hilts could make that turning radius with an RV. Mr. Hilts agreed. He said his whole driveway is within the 15 foot setback. Mr. Hilts and his wife talked about the bare minimum would be the ability to have the camper there in the summer time, would that be feasible. He went on to explain that it seemed to be a good fit to have the camper there due to the hedges and the topographical issues of the property. He said there are 6 or 7 other properties that have their driveways in the setback. Winters asked if there were other RV's in the neighborhood. Mr. Hilts said that at least 2 other houses in the neighborhood have them.

In favor: none.

In opposition: none.

Code: none.

DECISION: A motion to approve request #1 was made by Winters, seconded by Marshall passed by a 4-0 vote.

A motion to approve the request #2 was made by Marshall, seconded by Wallner, passed by a 4-0 vote.

Request #1: Marshall thinks that there is a hardship connected to this request. And it is a safety issue shuffling vehicles around.

Request #2: They are proposing having, possibly, a 30 foot RV. Marshall stated that from the contours of the pictures the back yard has a steep slope. They do have the vegetation buffer. Marshall asked Walker if they could put a size restriction on the RV. Walker said that the representation to the board is that it will be a 30' +/- camper trailer if in the future there was a significant change the issue could be required to come back to the board.

40-15 James Marsh for Anita Jewell: Applicant wishes to remove and replace a second floor egress and create a new 6' x 8' deck within the side yard setback and requests a variance to Article 28-4-1(h), Table of Dimensional Regulations, to permit a minimum 4 foot +/- setback for a second floor deck with egress stairs (46" wide +/-) for a second floor dwelling unit for property at 234/236 North State Street in a UT Urban Transitional District.

James Marsh testified. This request is for the second floor apartment. The apartment has just one entrance and it exits through the building. There is a window there now with a 3x3 landing and a set of stairs down to the ground. His customer would like to replace the window with a door and have it be a second primary entrance to the apartment. The 3x3 landing would then be much too small. To move appliances, furniture and what not through the building is hard to do as it is a small, very tight and hard to get through area. This would allow much easier access to that unit for moving things in and out. There would be a storm/screen door on that doorway. This would make it a safer approach with a much larger landing on top.

The deck in the summer time would be in at tree line and you wouldn't be able to see it. Carley asked if there were an auto parts store for a neighbor. Mr. Marsh said that it is. It would not be a negative impact on the neighborhood. They would only intrude another 3 feet into the setback. Marshall asked what materials would be used. Mr. Marsh said they would be using pressure treated wood.

In favor: none.

In opposition: none.

Code: none.

DECISION: A motion to approve the request was made by Winters, seconded by Marshall and passed by a 4-0 vote.

Winters felt it was reasonable given the location and the fact that they have no good egress on the unit

MINUTES

A motion to approve the October 2015 Minutes was made by Wallner, seconded by Winters and passed by a 4-0 vote.

A TRUE RECORD ATTEST,

Rose M. Fife , CLERK ZONING BOARD OF ADJUSTMENT